

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1217 - SB 1994

March 27, 2011

SUMMARY OF BILL: Elevates assault to aggravated assault for a person who intentionally throws, spits, or otherwise projects urine, vomit, blood, or other bodily fluids on or at a correctional officer or other employee of a prison, jail, or other facility to which adults are sentenced to imprisonment, or at an employee of a juvenile detention facility or other institution or camp to which juveniles adjudicated delinquent are committed or confined; intends to cause the bodily fluid to come in contact with an officer; and reasonably should know that the officer would regard the contact with the person's bodily fluids to be extremely offensive. Violation is punished as a Class D felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$7,322, 400/Incarceration*

Assumptions:

- Simple assault is currently punishable as a Class A or Class B misdemeanor. Aggravated assault is currently punishable as a Class C or Class D felony. Under existing law, an assault on a correctional officer constitutes aggravated assault if the assault causes serious bodily injury or a deadly weapon is used or displayed.
- According to the Department of Correction (DOC), there were a total of 886 incidents reported in the Tennessee Offender Management Information System in the past three years for throwing liquid, blood, waste, chemicals, and urine. Thirty-two percent (284) of the total incidents were unknown, 22 percent (195) did not apply to the bill, with the remaining 407 incidents related to this bill. Estimate assumes 136 (407/3 years) of those offenders will receive an additional Class D felony.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 16 additional offenders in the tenth year.
- According to the Department, 39.6 percent of offenders will re-offend within two years of their release. A recidivism discount of 39.6 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (152 offenders x 39.6% recidivism discount = 60 offenders) resulting in 92 (152 – 60) offenders.

- According to data published by the Tennessee Bureau of Investigation, there has been an average of 678 aggravated assaults per year for the past three years on law enforcement officers. DOC estimates 10 percent (68) would receive a Class D for aggravated assault against a local correctional officer or jailer as a result of this bill. Population growth will result in an additional eight offenders resulting in 76 (68 + 8) offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 168 offenders serving a Class D felony for aggravated assault.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class D felony is 1.97 years (719 days) at a cost of \$43,586 (\$60.62 x 719 days). The total additional operating cost for 168 offenders is \$7,322,448 (\$43,586 x 168).
- State and local government will have a decrease in expenditures and revenue associated with misdemeanor offenses that will be elevated to felony offenses under this bill. This decrease will not have a significant fiscal impact.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc